

(c) Mail order pharmacies will not require preauthorization when the recipient is not required to travel outside the state to receive the service. (2-15-93)

(d) Services for which Medicare is the primary payer of service. (2-15-93)

i. A request for out-of-state preauthorization may be initiated by the recipient, the recipient's physician(s), and/or the treating facility. The preauthorization must be obtained prior to the scheduled date of the nonemergency service. Failure to request a timely authorization will result in denial of Medicaid payment for the out-of-state care and any associated transportation costs. (2-15-93)

ii. There will be no Medicaid payment if the service is determined to be available closer to the recipient's residence or if no preauthorization was obtained prior to the date of the service as required. (2-15-93)

iii. The treating physician and the admitting facility is responsible for assuring that the Department's designated PRO has preauthorized the out-of-state nonemergency service for inpatient care. (2-15-93)

iv. No payment for services not preauthorized by the Department's designated PRO may be obtained from the recipient, absent the Medicaid recipient's informed decision to incur the cost of services. (2-15-93)

v. The only exceptions to the preauthorization requirement are: (2-15-93)

(a) When eligibility for Medicaid is determined after the service was provided. The service still must be determined not to be available closer to the recipient's residence. (2-15-93)

(b) Services for which Medicare is the primary payer of service. (2-15-93)

vi. The PRO review will be governed by provisions of the PRO provider manual as amended. (2-15-93)

e. Long-term care outside the State may be approved by the Department on an individual basis in temporary or emergency situations. Nursing home care will be limited to the period of time required to safely transport the recipient to an Idaho facility. Out-of-state care will not be approved on a permanent basis. (11-10-81)

016. -- 019. (RESERVED).

020. PROVIDER APPLICATION PROCESS. (7-1-93)

01. In-state Provider Application. In-state providers may apply for provider numbers with the Bureau. Those in-state providers who have previously been assigned a Medicare number may retain that same number. The Bureau will confirm the status for all applicants with the appropriate licensing board and assign a Medicaid provider number (s). (3-22-93)

02. Out-of-State Provider Application. Out-of-state providers who wish to participate in the Medical Assistance Program must complete a provider application and be assigned a provider number by the Bureau. The Bureau will contact a representative of Medicaid or a licensing agency in the state in which the provider practices to confirm the provider applicant's professional status and license number. (11-10-81)

03. Denial of Provider Application. The Bureau must not accept the application of a provider who is suspended from Medicare or Medicaid in another state. (11-10-81)

## 021. PATIENT "ADVANCED DIRECTIVES".

(4-30-92)

01. Provider Participation. Hospitals, nursing facilities, providers of home health care services (home health agencies, federally qualified health clinics, rural health clinics), hospice providers, and personal care R.N. supervisors must:

(4-30-92)

a. Provide all adults receiving medical care written and oral information (the information provided must contain all material found in the Department's approved advanced directive form "Your Rights As A Patient To Make Medical Treatment Decisions") which defines their rights under state law to make decisions concerning their medical care.

(4-30-92)

i. The provider must explain that the recipient has the right to make decisions regarding their medical care which includes the right to accept or refuse treatment. If the recipient has any questions regarding treatment, the facility or agency will notify the physician of those concerns. Their physician can answer any questions they may have about the treatment.

(4-30-92)

ii. The provider will inform the recipient of their rights to formulate advance directives, such as "Living Will" and/or "Durable Power of Attorney For Health Care."

(4-30-92)

iii. The provider must comply with Subsection 021.02.

(4-30-92)

b. Provide all adults receiving medical care written information on the providers' policies concerning the implementation of the recipient's rights regarding "Durable Power of Attorney for Health Care," "Living Will," and the recipient's right to accept or refuse medical and surgical treatment.

(4-30-92)

c. Document in the recipient's medical record whether the recipient has executed an advance directive ("Living Will" and/or "Durable Power of Attorney for Health Care") or, have a copy of the Department's approved advance directive form ("Your Rights as a Patient to Make Medical Treatment Decisions") attached to the patient's medical record which has been completed acknowledging whether the patient/resident has executed an advance directive ("Living Will" and/or "Durable Power of Attorney for Health Care").

(4-30-92)

d. The provider cannot condition the provision of care or otherwise discriminate against an individual based on whether that recipient has executed an "Advance Directive."

(4-30-92)

e. If the provider cannot comply with the patient's "Living Will" and/or "Durable Power of Attorney for Health Care" as a matter of conscience, the provider will assist the recipient in transferring to a facility/provider that can comply.

(4-30-92)

f. Provide education to their staff and the community on issues concerning advanced directives.

(4-30-92)

02. When "Advanced Directives" Must Be Given. Hospitals, nursing facilities, providers of home health care (home health agencies, federally qualified health centers, rural health clinics), hospice agencies, and personal care R.N. supervisors, must give information concerning "Advanced Directives" to adult recipients in the following situations:

(4-30-92)

a. Hospitals must give the information at the time of the recipient's admission as an inpatient unless Subsection 021.03. applies.

(4-30-92)

b. Nursing facilities must give the information at the time of the recipient's admission as a resident.

(4-30-92)

c. Home health providers must give the information to the recipient in advance of the recipient coming under the care of the provider. (4-30-92)

d. The personal care R.N. supervisors will inform the recipient when the R.N. completes the R.N. Assessment and Care Plan. The R.N. supervisor will inform the QMRP and the personal care attendant of the recipient's decision regarding "Advanced Directives". (4-30-92)

e. A hospice provider must give information at the time of initial receipt of hospice care by the recipient. (4-30-92)

03. Information Concerning "Advanced Directives" at the Time an Incapacitated Individual is Admitted. An individual may be admitted to a facility in a comatose or otherwise incapacitated state and be unable to receive information or articulate whether he has executed an advance directive. In this case, to the extent that a facility issues materials about policies and procedures to the families or to the surrogates or other concerned persons of the incapacitated patient in accordance with state law, it must also include the information concerning advance directives. This does not relieve the facility from its obligation to provide this information to the patient once he is no longer incapacitated. (4-30-92)

04. Provider Agreement. The provider will sign a "Memorandum of Understanding Regarding Advance Directives" with the Department until the "Patient's Notification of Advanced Directives" is incorporated within the Provider Agreement. By signing the Memorandum of Understanding or the Medicaid Provider Agreement, the provider is not excused from its obligation regarding advanced directives to the general public per Section 1902(a) of the Social Security Act, as amended by Section 4751 of OBRA 1990. (4-30-92)

022. -- 024. (RESERVED).

025. LIENS. No lien or encumbrance of any kind is to be required from, or imposed against, the property of any person prior to his death because of MA paid or to be paid on his behalf, or at any time if he was under sixty-five (65) years of age when he received such MA benefits except pursuant to the judgment of a court on account of benefits incorrectly paid on behalf of such individual. (11-10-81)

026. CONDITIONS FOR PAYMENT. (7-1-93)

01. Recipient Eligibility. The Department will reimburse providers for medical care and services, regardless of the current eligibility status of the MA recipient in the month of payment, provided that each of the following conditions are met: (11-10-81)

a. The recipient was found eligible for MA for the month, day, and year during which the medical care and services were rendered; and (11-10-81)

b. The recipient received such medical care and services no earlier than the third month before the month in which application was made on such recipient's behalf; and (11-10-81)

c. Not more than twelve (12) months have elapsed since the month of the latest recipient services for which such payment is being made. Medicare cross-over claims are excluded from the twelve (12) month submittal limitation. (11-10-81)

02. Time Limits. The time limit set forth in Subsection 026.01.c. shall not apply with respect to retroactive adjustment payments. (12-31-91)

03. Acceptance of State Payment. By participating in the Medical Assistance Program, providers agree to accept, as payment in full, the amounts paid by the Department for services to Medicaid recipients. Providers also agree to provide all materials and services without unlawfully discriminating

on the grounds of race, age, sex, creed, color, national origin, or physical or mental handicap. (3-22-93)

027. -- 029. (RESERVED).

030. THIRD PARTY LIABILITY. (7-1-93)

01. Determining Liability of Third Parties. The Department will take reasonable measures to determine any legal liability of third parties for the medical care and services included under the MA Program, the need for which arises out of injury, disease, or disability of an MA recipient. (11-10-81)

02. Third Party Liability as a Current Resource. In determining whether MA is payable, the Department is to treat any third party liability as a current resource when such liability is found to exist and payment by the third party has been made or will be made within a reasonable time. (11-10-81)

03. Withholding Payment. The Department must not withhold payment on behalf of an eligible MA recipient because of the liability of a third party when such liability, or the amount thereof, cannot be currently established or is not currently available to pay the recipient's medical expense. (11-10-81)

04. Seeking Third Party Reimbursement. The Department will seek reimbursement from a third party for MA when the party's liability is established after MA is granted, and in any other case in which the liability of a third party existed, but was not treated as a current resource, with the exceptions of absent parent without a second valid resource, prenatal, EPSDT, and EPSDT related services. (2-4-91)

a. The Department will seek reimbursement for MA from a recipient when a recipient's liability is established after MA has been granted; and (11-10-81)

b. In any other situation in which the recipient has received direct payment from any third party resource and has not returned the money to the Department for MA service received. (11-10-81)

05. Billing Third Parties First. Medicaid providers must bill all other sources of direct third party payment, with the exception of absent parent (court ordered) without secondary resources, prenatal, EPSDT and EPSDT related services before submitting the claim to the Department. If the resource is an absent parent (court ordered) and there are no other viable resources available or if the claims are for prenatal, EPSDT, or EPSDT related services, the claims will be paid and the resources billed by the Department. (2-4-91)

06. Accident Determination. When the patient's Medicaid card indicates private insurance and/or when the diagnosis indicates an accident for which private insurance is often carried, the claim will be suspended or denied until it can be determined that there is no other source of payment. (11-10-81)

07. Third Party Payments in Excess of Medicaid Limits. The Department will not reimburse providers for services provided when the amount received by the provider from the third party payor is equal to or exceeds the level of reimbursement allowed by MA for the services. (11-10-81)

08. Subrogation of Third Party Liability. In all cases where the Department will be required to pay medical expenses for a recipient and that recipient is entitled to recover any or all such medical expenses from any third party, the Department will be subrogated to the rights of the recipient to the extent of the amount of medical assistance benefits paid by the Department as the result of the occurrence giving rise to the claim against the third party. (11-10-81)

a. If litigation or a settlement in such a claim is pursued by the MA recipient, the recipient must notify the Department. (11-10-81)

b. If the recipient recovers funds, either by settlement or judgment, from such a third party, the recipient must repay the amount of benefits paid by the Department on his behalf. (11-10-81)

#### 09. Subrogation of Legal Fees.

a. If an MA recipient incurs the obligation to pay attorney fees and court costs for the purpose of enforcing a monetary claim to which the Department is subrogated, the amount which the Department is entitled to recover, or any lesser amount which the Department may agree to accept in compromise of its claim, will be reduced by an amount which bears the same relation to the total amount of attorney fees and court costs actually paid by the recipient as the amount actually recovered by the Department, exclusive of the reduction for attorney fees and court costs, bears to the total amount paid by the third party to the recipient. (11-10-81)

b. If a settlement or judgment is received by the recipient which does specify portion of the settlement or judgment which is for payment of medical expenses, it will be presumed that the settlement or judgment applies first to the medical expenses incurred by the recipient in an amount equal to the expenditure for benefits paid by the Department as a result of the payment or payments to the recipient. (11-10-81)

031. MEDICAID COST RECOVERY FROM PARENTS. The Department intends to recover from a child's parent, all or part of the cost of Medicaid services to the child in a Nursing Facility (NF), in an Intermediate Care Facility for the Mentally Retarded (ICF/MR), or under Home Care for Certain Disabled Children (HCCDC). The child must be under eighteen (18). Recovery is from the child's natural or adoptive parent. Recovery is made under Sections 32-1003, 56-203B, and 56-209b, Idaho Code. Upon application for Medicaid, the applicant assigns to the State of Idaho his rights to recover payments for his medical expenses from any liable third party, including a parent. Recovery will not be made for a child receiving adoption assistance under Title IV-E of the Social Security Act, or under the State Adoption Assistance Program. The Examiner must tell the parent(s) of a child applying for Medicaid help with NF, ICF/MR, or HCCDC, that he may be required to share in the cost of Medicaid services for the child. No eligible child will be denied Medicaid services if a responsible parent fails to pay the assessment. Medicaid payments to providers will not be reduced if the parent fails to pay. (7-6-94)

01. Parent Gross Assessment Income. Parent gross assessment income is the parents' adjusted gross federal income as reported on the last calendar year's federal income tax form 1040 or 1040A (Adjusted Gross Income). The figure on the line entitled "Adjusted Gross Income" of the 1040 or 1040A is for two-parent families whether filing jointly or separately. Where the child's custodial parent lives with the child's stepparent, the amount on the line entitled "Adjusted Gross Income" on the 1040 or 1040A must be adjusted by subtracting the stepparent's income. Parents who have not yet filed a tax return must provide an estimated adjusted gross income amount. The tax return must be provided when filed. Parents who claim this year's income is substantially different from their previous adjusted gross federal income must provide proof of their actual income. (7-6-94)

02. Stepparent Income. Where the parent's spouse is the child's stepparent, the parent's community property interest in the stepparent's income is not income to the parent for calculating the parent's assessment income (AI). (7-6-94)

03. Two Parent Assessment. Where the child's parents are living apart, each parent is separately assessed. The assessment of each parent is lowered, if necessary, so the total assessment for the child is not more than the Medicaid payments made for the child during the assessment year. (7-6-94)

04. Family Size. Family size includes the child's natural, step, or adoptive parents if living in the home. Family size also includes natural and adoptive siblings if living in the same home. Family size does not include the child's stepsiblings. The Medicaid child is included if living in the home. (7-6-94)

05. Annual Assessment Calculation. The annual assessment is based on the AI and family size. Calculate the annual assessment following the steps in Subsections 03.09031.05. a. through d. The Third Party Recovery (TPR) unit calculates the assessment based on information provided by the parent. (7-6-94)

a. Step 1. From the parent's AI, deduct all payments for court-ordered child support (7-6-94)

b. Step 2. From the AI, subtract two hundred percent (200%) of the Federal Poverty Guideline (FPG) for the family size. The FPG is published annually in the Federal Register by the federal Office of Management and Budget. The annual FPG change takes effect the following July for calculating the assessment. (7-6-94)

c. Step 3. Multiply the result from Step 2, up to fifty thousand dollars (\$50,000), by ten percent (10%), between fifty thousand dollars (\$50,000) and sixty thousand dollars (\$60,000) by twelve percent (12%), between sixty thousand dollars (\$60,000) and seventy-five thousand dollars (\$75,000) by fourteen percent (14%), and multiply the remainder over seventy-five thousand dollars (\$75,000) by fifteen percent (15%). (7-6-94)

d. Step 4. Add together the results of each calculation in Step 3. Add the total to the amount calculated in Step 2. This is the annual assessment. (7-6-94)

e. Step 5. From the amount in Step 4, deduct the annual amount paid for health insurance premiums if this insurance covers the Medicaid child. (7-6-94)

06. Monthly Assessment Amount. The monthly assessment is determined by dividing the annual assessment calculated in Subsection 03.09.031.05 by twelve (12). Where the child is living in a nursing facility or ICF/MR and is not receiving Supplemental Security Income (SSI) or other income, his thirty dollar (\$30) personal needs allowance is deducted from the monthly assessment. (7-6-94)

07. Initial Assessment. The parent(s) will be identified by the Field Office when a child applies for or receives Medicaid help in the cost of NF or ICF/MR care or applies for HCCDC Medicaid. The Field Office will provide this information to the TPR unit. (7-6-94)

08. TPR Contact. The TPR unit will notify the parent(s), in writing, of their legal responsibility to share in the cost of NF, ICF/MR, or HCCDC services for the child. The notice will be sent within thirty (30) days of the date the child's Medicaid application is approved. Income and expense reporting forms will be provided to the parent(s). The parent can provide his IRS income tax forms for the previous year in place of an income report. (7-6-94)

09. Noncooperation. A monthly assessment equal to the average Medicaid reimbursement rate for the child's level of care, as published by the Department for the previous year, is used if a parent fails to provide income information; provides false or misleading statements; misrepresents, conceals or withholds facts to avoid financial responsibility. (7-6-94)

10. Notice of Assessment Amount. The TPR unit sends the parent(s) written notice of the assessment amount within ten (10) days of the date the assessment is calculated. The notice will include the amount calculated as the

**Compiler's notes.** Former § 67-5202 was amended and redesignated as § 67-5250 by § 35 of S.L. 1992, ch. 263, effective July 1, 1993.

Section 241 of S.L. 1994, ch. 180 provided that such act should become effective on and after the first Monday in January, 1995 [January 2, 1995] if the amendment to the Constitution of Idaho changing the name of the state auditor to state controller [1994 S.J.R. No. 109, p. 1493] was adopted at the general election held on November 8, 1994. Since such amendment was adopted, the amendment to

this section by § 218 of S.L. 1994, ch. 180 became effective January 2, 1995.

Sections 217 and 219 of S.L. 1994, ch. 180 are compiled as §§ 67-4917C and 67-5303, respectively.

Section 241 of S.L. 1994, ch. 180 provided: "This act shall be in full force and effect on and after the first Monday of January, 1995, if the state board of canvassers has certified that an amendment to the Constitution of the State of Idaho has been adopted at the general election of 1994 to change the name of the state auditor to state controller."

#### **67-5202A. Numbering and format of rules. [Repealed.]**

**Compiler's notes.** This section, which comprised 1965, ch. 273, § 2, p. 701; am.

1980, ch. 204, § 1, p. 468, was repealed by S.L. 1992, ch. 263, § 5, effective July 1, 1993.

**67-5203. Publication of administrative bulletin.** — (1) All documents required or authorized in this chapter or by other provision of law to be published shall initially be published in the bulletin. The bulletin shall be published by the administrative rules coordinator not less frequently than the first Wednesday of each calendar month, but not more frequently than every other week.

(2) The bulletin shall contain all previously unpublished documents filed with the coordinator in compliance with a publication schedule established by the coordinator.

(3) Each issue of the bulletin shall contain a table of contents. A cumulative index shall be published at least every three (3) months.

(4) The following documents, if not required to be otherwise published, shall be published in the bulletin:

- (a) all proclamations and executive orders of the governor;
- (b) agency notices of intent to promulgate rules, notices of proposed rules, and the text of all proposed and final rules, together with any explanatory material supplied by the agency;
- (c) all agency documents required by law to be published in the bulletin; and
- (d) any legislative documents affecting a final agency rule.

(5) The text of all documents published in the bulletin shall be the official text of that document until the document has been published in the administrative code. Judicial notice shall be taken of all documents published in the bulletin.

(6) The coordinator shall provide a process for access to the contents of the bulletin and to the administrative code by electronic means. [I.C., § 67-5203, as added by 1992, ch. 263, § 3, p. 783; am. 1993, ch. 216, § 102, p. 853; am. 1993, ch. 245, § 1, p. 587; am. 1994, ch. 371, § 1, p. 1194.]

**Compiler's notes.** Former § 67-5203 was amended and redesignated as § 67-5221 by § 10 of S.L. 1992, ch. 263, effective July 1, 1993.

Section 101 of S.L. 1993, ch. 216 is compiled as § 67-5201.

Section 2 of S.L. 1993, ch. 245 is compiled as § 67-5205.



Section 2 of S.L. 1994, ch. 371 is compiled as § 67-5205.

Cross ref. Notice by mail, § 60-109A.

Sec. to sec. ref. This section is referred to in §§ 33-105, 36-104, 36-105, 67-454, and 67-5206.

### 67-5203A. [Amended and Redesignated.]

Compiler's notes. Former § 67-5203A by § 19 of S.L. 1992, ch. 263, effective July 1, was amended and redesignated as § 67-5229 1993.

**67-5204. Publication of administrative code.** — (1) The administrative rules coordinator shall annually publish a publication to be known as the "Idaho Administrative Code."

(2) The administrative code shall be a codification of:

(a) all proclamations and executive orders of the governor that have been published in the bulletin and have not been rescinded;

(b) the text of all final rules;

(c) any legislative documents affecting a final agency rule; and

(d) all documents required by law to be published in the administrative code.

(3) The text of all documents published in the administrative code shall be the official text of that document. Judicial notice shall be taken of all documents published in the administrative code. [I.C., § 67-5204, as added by 1992, ch. 263, § 4, p. 783; am. 1993, ch. 216, § 103, p. 587.]

Compiler's notes. Former § 67-5204, which comprised 1965, ch. 273, § 4, p. 701; 1978, ch. 255, § 2, p. 556, was repealed S.L. 1992, ch. 263, § 11, effective July 1, 1993.

Section 104 of S.L. 1993, ch. 216 is compiled as § 67-5206.

Sec. to sec. ref. This section is referred to in § 67-5206.

Section 5 of S.L. 1992, ch. 263 contained a repeal.

#### DECISIONS UNDER PRIOR LAW

##### Filing.

To satisfy the requirement that an agency ruling must be made available for public inspection in order to be given full force and effect, an agency must file in its central office

a certified copy of each rule adopted by it as required by this section and must "publish" all effective rules adopted by it as required by I.C. § 67-5205. *Williams v. State*, 95 Idaho 5, 501 P.2d 203 (1972).

**67-5205. Format — Costs — Distribution — Funds.** — (1) The administrative code and the permanent supplements thereto shall be published in such a manner that every agency has an opportunity to procure at reasonable cost from the coordinator, individual printed pamphlet copies of the rules and statements of policy of such agency published by authority of this chapter. No administrative rule or statement of policy published in the administrative code or the permanent supplements shall be reset or otherwise reprinted at public expense upon a format distinct from that of the administrative code without a certification by the coordinator that such special format is necessary for the effective performance by the agency of its functions.

(2) The prices to be charged for individual copies of and subscriptions to the administrative code, the permanent supplements thereto and the

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bulletin, for reprints and bound volumes thereof and for pamphlet rules and statements of policy, which prices may be fixed without reference to the restrictions placed upon and fixed for the sale of other publications of the state, and the number of copies which shall be distributed free for official use, in addition to those free copies required to be as provided in this section, shall be set by rules promulgated by the coordinator. The coordinator may set prices without reference to the restrictions placed upon the sale of other publications of the state. Free copies shall be distributed by the coordinator, as follows:

- (a) One (1) to each county clerk for the use of the county law library.
- (b) One (1) each to the senate and the house of representatives.
- (c) One (1) to the attorney general.
- (d) One (1) to the legislative council.
- (e) One (1) each to the state universities and colleges, and one (1) to each community college.
- (f) One (1) to the state law library.
- (g) One (1) to the state library.
- (h) One (1) each to the following state depository libraries: Boise Public Library, East Bonner County Library, Idaho Falls Public Library, Lewiston City Library, Pocatello Library, Albertson College Library, Ricks College Library and Twin Falls Public Library.

In addition to those free copies required to be distributed by this section, the coordinator may distribute free copies for official use.

(3) Without limiting the generality of the provisions of subsection (2) of this section, the rules of the coordinator may provide for volume discounts to be available to established law book publishers who agree to incorporate fully administrative rules, the permanent supplements thereto and the bulletin into their general scheme of promotion and distribution, and may provide for the free reciprocal exchange of publications between this state and other states and foreign jurisdictions. The provisions of this section include the authority to exchange, display, access and publish texts through electronic media.

(4) There is hereby created in the state treasury the administrative code account. All moneys received from the production of rules, the sale of the administrative code, the permanent supplements thereto, or the bulletin, and for providing electronic access, shall be deposited in the account. All agencies which have any material published in the bulletin, administrative code or supplements thereto, or newspapers, are hereby authorized and directed to pay out of their appropriations to the coordinator their respective shares of the costs of publication and distribution of such material. All moneys placed in the account are perpetually appropriated to the coordinator for the administration of the provisions of this chapter, and for the publication and distribution of the bulletin, administrative code or supplements thereto, as authorized in this chapter.

The coordinator shall allocate costs of production, publication and distribution to each participating agency in the same proportion that the amount of the costs of production, publication and distribution for that agency bears to the total costs of production, publication and distribution for all agencies,

with the costs to be determined on a per page basis. A cost per page may be imposed even though less than a full page of publication is required.

The cost allocations to each participating agency shall be made monthly by the coordinator, and each participating agency shall promptly pay into the administrative code account such costs. [I.C., § 67-5205, as added by 1992, ch. 263, § 6, p. 783; am. 1993, ch. 245, § 2, p. 853; am. 1994, ch. 371, § 2, p. 1194.]

**Compiler's notes.** Former § 67-5205, which comprised 1965, ch. 273, § 5, p. 701; am. 1980, ch. 78, § 1, p. 160; am. 1981, ch. 251, § 1, p. 541; am. 1983, ch. 86, § 1, p. 181; am. 1985, ch. 221, § 1, p. 533; am. 1986, ch. 105, § 1, p. 292, was repealed by S.L. 1992, ch. 263, § 20, effective July 1, 1993.

Section 5 of S.L. 1992, ch. 263 contained a repeal.

Sections 1 and 3 of S.L. 1993, ch. 245 are compiled as §§ 67-5203 and 67-5221, respectively.

Sections 1 and 3 of S.L. 1994, ch. 371 are compiled as §§ 67-5203 and 67-5221, respectively.

**Sec. to sec. ref.** This section is referred to in § 67-5218.

#### DECISIONS UNDER PRIOR LAW

##### ANALYSIS

Instructions concerning administrative review.  
Publication.

##### Instructions Concerning Administrative Review.

The public policy behind this statute should encourage administrative agencies to attach to all preliminary orders instructions concerning the available administrative review of those orders. *Williams v. State*, 95 Idaho 5, 501 P.2d 203 (1972).

##### Publication.

In satisfying its duty to publish its rules, an administrative agency must at least furnish state, district and county law libraries with complete sets of pertinent agency rules and regulations; if it fails to do so its rules and regulations are without force and effect. *Williams v. State*, 95 Idaho 5, 501 P.2d 203 (1972).

The rules and regulations of an agency must be properly published and made available for public inspection before the doctrine of exhaustion of administrative remedies becomes applicable; therefore trial court could not rule as a matter of law on motion to dismiss that appellants had not complied with agency regulations and exhausted its administrative remedy in view of factual issue regarding whether or not the agency's regulations had been published. *Williams v. State*, 95 Idaho 5, 501 P.2d 203 (1972).

To satisfy the requirement that an agency ruling must be made available for public inspection in order to be given full force and effect, an agency must file in its central office a certified copy of each rule adopted by it as required by former law and must "publish" all effective rules adopted by it as required by this section. *Williams v. State*, 95 Idaho 5, 501 P.2d 203 (1972).

**67-5206. Promulgation of rules implementing administrative procedure act.** — (1) In accordance with the rulemaking requirements of this chapter, the administrative rules coordinator shall promulgate rules implementing the provisions of sections 67-5203, 67-5204 and 67-5205, Idaho Code. The rules shall:

- (a) establish a uniform numbering system applicable to rules adopted by all agencies;
- (b) establish a uniform style and format applicable to rules adopted by all agencies;
- (c) establish a publication schedule for the bulletin and the administrative code, including deadlines for the submission of documents to be included within each publication;
- (d) establish a uniform indexing system for agency orders; and

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